

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-218615.2

October 8, 1985

**FILE:**

**DATE:**

TCA Reservations, Inc.--Reconsideration

**MATTER OF:**

**DIGEST:**

Prior decision denying protest is affirmed where protester fails to present facts or legal arguments which were not previously considered.

TCA Reservations, Inc. (TCA) requests reconsideration of our decision in TCA Reservations, Inc., B-218615, Aug. 13, 1985, 85-2 CPD ¶ \_\_\_\_\_, denying its protest that the Air Force improperly rejected its bid under invitation for bids (IFB) No. F41800-84-B-8831 for the bid's failure to acknowledge a material amendment. The purpose of the solicitation was to provide the basis for a cost comparison to determine whether to perform certain word processing services in-house or under contract.

We affirm the prior decision.

TCA alleged in its original protest that it did not receive a copy of the amendment, and argued that it was the Air Force's responsibility to insure bidders' timely receipt of amendments. TCA also suggested that its failure to acknowledge the amendment, which added a new wage rate and a new work station, should be waived as a minor irregularity since, according to TCA, its planned wages were higher than the minimum wages prescribed by the wage rate determination, and because it took into account the added work station based on the contracting officer's oral advice that the IFB would be amended.

We denied the protest because it is a well-established rule that a bidder bears the risk of not receiving IFB amendments unless it is shown that the contracting agency made a deliberate attempt to exclude the bidder from competing. Reliable Service Technology, B-217152, Feb. 25, 1985, 85-1 CPD ¶ 234. TCA did not allege that the Air Force attempted to so exclude TCA. Further, notwithstanding the fact that TCA's wage plan may have provided higher wages than the minimum wages prescribed by the amendment,

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the failure to acknowledge an amendment that upwardly revises a wage rate generally renders a bid nonresponsive because without the acknowledgment, the bid does not legally obligate the bidder to pay the wages prescribed by the amendment. Id.

TCA's reconsideration request reiterates its belief that it was the Air Force's responsibility to assure bidders' timely receipt of amendments. In addition, TCA now argues that the Air Force presumably failed to mail the amendment in a deliberate attempt to eliminate bidders. In support of this allegation, TCA states that it believes there was another bid that was determined to be nonresponsive for its failure to acknowledge an amendment.

Under our Bid Protest Regulations, a request for reconsideration must contain a detailed statement of the factual and legal grounds upon which reversal or modification of a decision is deemed warranted and must specify any errors of law made in the decision or information not previously considered. 4 C.F.R. § 21.12(a) (1985). Information not previously considered refers to information which was overlooked by our Office or information to which the protester did not have access when the initial protest was pending. BECO Corp.--Reconsideration, B-219350.2, June 20, 1985, 85-1 CPD ¶ 707. Repeating its argument that the Air Force had a duty to assure bidders' receipt of amendments does not meet this standard. See id. Mere disagreement with our prior decision provides no basis for reversing the decision. Mayden & Mayden--Reconsideration, B-218422.2, May 13, 1985, 85-1 CPD ¶ 539. We point out simply that it is not the agency's obligation to ensure receipt of solicitation amendments by bidders, and it is therefore prudent for bidders to check with the contracting officer prior to bid opening to make sure it has received all amendments issued.

TCA's allegation that the Air Force deliberately withheld mailing amendments (of which there were two) is based only on inferences drawn from TCA's nonreceipt of the amendment and on the rejection of one of six other bids for its failure to acknowledge an amendment. Such inferences are insufficient to support a finding that the Air Force made a deliberate attempt to exclude TCA from competing. The protester has the burden of proving its case, and we will not attribute improper motives to procurement personnel on the basis of inference or supposition. Serv-Air, Inc., B-216582, Jan. 16, 1984, 85-1 CPD ¶ 42.

The prior decision is affirmed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel